

AMENDED IN ASSEMBLY APRIL 4, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2271**

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**Introduced by Assembly Members ~~Koretz, Bermudez, Levine,  
Pavley, and Saldana~~ Member *Koretz***  
**(Coauthors: Assembly Members *Bermudez, Chan, Levine, Nava,  
Oropeza, Pavley, and Saldana*)**  
(Coauthor: Senator Romero)

February 22, 2006

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An act to add Chapter 6 (commencing with Section 15030) to Division 12.2 of the Public Resources Code, relating to batteries, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2271, as amended, Koretz. Household batteries: recycling.

The Rechargeable Battery Recycling Act of 2006 requires, on and after July 1, 2006, a retailer, who is defined as a person who makes a retail sale of a rechargeable battery to a consumer in this state, to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling or proper disposal. Existing law prohibits the sale by a retailer of a rechargeable battery to a consumer after July 1, 2006, unless the retailer complies with that act.

This bill would enact the California Household Battery Recycling Act, define terms, and establish a refund value of 10¢ for every household battery subject to the act. The bill would require a distributor of household batteries to pay the refund value to an unspecified department for every household battery sold or offered for sale, in this state, or imported into this state, by the distributor.

The bill would require the department to deposit all amounts paid as refund values by distributors into the California Battery Recycling Fund, which the bill would create in the State Treasury. The bill would continuously appropriate the money in that fund to the department for expenditure without regard to fiscal year to make specified payments and grants pursuant to the act, as specified.

The bill would require the department to certify the operations of a battery recycler pursuant to regulations that the department would be required to adopt and would require a battery recycler to comply with those regulations. The bill would prohibit the department from taking any action imposing any requirements upon, or otherwise regulating, a battery recycler, unless the action is expressly authorized by the act.

The bill would require the department to pay the refund value to a certified battery recycler, for every used household battery received by the recycler from a certified battery collector, as defined, and would require a certified battery recycler to pay the applicable refund value for each used household battery received by the recycler from a certified battery collector.

The bill would require the department to certify battery collectors, in accordance with the regulations that the department would be required to adopt. The bill would require battery collectors to comply with those regulations. The bill would require a certified battery collection center, as defined, to accept from any consumer, collection program, or curbside program any used household battery and to pay to the consumer or collection or curbside program the refund value for that used household battery. The bill would authorize a curbside program or a collection program to accept a used household battery from a consumer but would not authorize the program to pay the consumer the applicable refund value.

The bill would require the department to develop and implement a public education campaign. The bill would require the department, if it determines that specified goals regarding the diversion of household batteries from disposal are not being met, to make recommendations to the Legislature regarding increasing the refund value or establishing additional battery collection centers.

The bill would require a battery recycler and a distributor to submit monthly reports to the department and would require a retailer to post a specified sign provided by the department at every public entrance to the retailer's place of business.

The bill would require the department, if any type of household battery container has a scrap value less than the cost of collection and recycling, to establish a collection payment and a recycling payment for the battery, by the type and size of the battery, using specified criteria. The bill would require the department to pay the amount of the recycling payment to a certified battery recycler, for every used battery received by the recycler from a certified collection center, curbside program, or collection program and would require the certified battery recycler to pay a collection payment to the certified collection center, collection program, or curbside program, for each used household battery received by the recycler.

The bill would provide that if the department determines that there are insufficient funds in the California Battery Recycling Fund to make those recycling payments, the bill would require the department to impose a battery recycling fee upon battery manufacturers. The bill would require a battery manufacturer to pay the department the applicable battery recycling fee for every battery sold or transferred to a distributor or retailer and would require the department to deposit the battery recycling fee revenues in the fund.

The bill would authorize the department to expend the money in the fund for the payment of refund values and recycling payments to recyclers. The bill would allow the department to expend money from the fund for the administration of the act only upon appropriation by the Legislature in the annual Budget Act. ~~The bill would also require the department to deposit all civil penalties collected pursuant to the act into the Penalty Account, which the bill would create in the fund. The bill would provide that money in the Penalty Account may be expended by the department only upon appropriation by the Legislature, for purposes of the act.~~

The bill would require the department, after setting aside funds estimated to be needed for those payments and a reserve for contingencies, to expend the remaining money in the fund in a specified manner, of which; \$5,000,000 may be expended annually on and after July 1, 2007, for payments to cities and counties for battery collection and recycling activities, \$1,500,000 on and after July 1, 2007, for grants to collection programs, \$5,000,000 annually for undertaking a statewide public education and information campaign, and \$5,000,000 annually, until January 1, 2010, for issuing grants or loans for recycling market development and expansion-related

activities aimed at increasing the recycling of batteries and the utilization of materials from used batteries.

~~The bill would provide that any person convicted of a violation of the act is guilty of an infraction and punishable by a fine of \$100 for each initial separate violation and not more than \$1,000 for each subsequent separate violation, thereby imposing a state-mandated local program by creating a new crime. The bill would also provide that a person who, with intent to defraud, takes specified actions is guilty of fraud and is punishable by specified criminal fines, imprisonment, or both.~~

~~The bill would authorize the department to assess a civil penalty upon a person who violates the act and provides that a person who intentionally or negligently violates the act may be assessed a civil penalty by the department of up to \$5,000.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6 (commencing with Section 15030) is  
2 added to Division 12.2 of the Public Resources Code, to read:

3  
4 CHAPTER 6. CALIFORNIA HOUSEHOLD BATTERY RECYCLING  
5 ACT

6  
7 Article 1. Findings

8  
9 15030. This chapter shall be known, and may be cited, as the  
10 “California Household Battery Recycling Act.”

11 15031. The Legislature finds and declares all of the  
12 following:

13 (a) The Department of Toxic Substances Control has  
14 determined that, due to their hazardous material content, the solid  
15 waste disposal of all household batteries should be prohibited. A

1 regulation authorizing a temporary householder exemption to this  
2 prohibition will expire, by its own terms, in February 2006.

3 (b) A purpose of this chapter is to enact a comprehensive and  
4 innovative system for the reuse, recycling, and proper and legal  
5 disposal of previously used household batteries.

6 (c) It is a further purpose of this chapter to enact a law that  
7 establishes a program that is convenient for consumers and the  
8 public to return, recycle, and ensure the safe and environmentally  
9 sound disposal of used household batteries, and that provides for  
10 a system that does not charge the consumer when a household  
11 battery is returned.

12 (d) It is the intent of the Legislature that the cost associated  
13 with the handling, recycling, and disposal of used household  
14 batteries be the responsibility of the producers and consumers of  
15 household batteries, and not local governments or their service  
16 providers, state government, or taxpayers.

17 (e) In order to reduce the likelihood of illegal disposal of  
18 hazardous materials, it is the intent of this chapter to ensure that  
19 all costs associated with the proper management of used  
20 household batteries be internalized by the producers and  
21 consumers of household batteries at or before the point of  
22 purchase, and not at the point of discard.

23 (f) Manufacturers and retailers of household batteries, in  
24 working to achieve the goals and objectives of this chapter,  
25 should have the flexibility to partner with nonprofit business  
26 enterprises that currently provide collection and processing  
27 services to develop and promote a safe and effective used  
28 household battery recycling system for California.

29 (g) The producers of household batteries should reduce and, to  
30 the extent feasible, ultimately phase out the use of hazardous  
31 materials in household batteries.

32 (h) Household batteries, to the greatest extent feasible, should  
33 be designed for extended life use.

34 (i) A purpose of this chapter is to provide for the safe, cost  
35 free, and convenient collection, reuse, and recycling of 100  
36 percent of the household batteries discarded or offered for  
37 recycling in the state.

38 (j) In establishing a cost-effective system for the recovery,  
39 reuse, recycling, and proper disposal of used household batteries,  
40 it is the intent of the Legislature to encourage existing collectors

1 and recyclers of covered electronic devices, operators of  
 2 beverage container recycling centers, retailers providing in store  
 3 take back of rechargeable batteries, and existing household  
 4 hazardous waste collection depots, to help provide the collection  
 5 infrastructure established by this chapter by participating as  
 6 battery collection centers under this program and accepting used  
 7 household batteries from consumers, thereby negating the need to  
 8 mandate the establishment of additional battery collection centers  
 9 in retailer parking lots or elsewhere.

10 (k) The Legislature hereby finds and declares that the refund  
 11 value and battery recycling fee established by this chapter would  
 12 not result in the imposition of a tax within the meaning of Article  
 13 XIII A of the California Constitution, because the amount and  
 14 nature of these fees have a fair and reasonable relationship to the  
 15 adverse environmental burdens imposed by the disposal of  
 16 household batteries in this state and there is a sufficient nexus  
 17 between the fees imposed by this chapter and the use of those  
 18 fees to support the safe and environmentally preferred  
 19 management of used household batteries.

20

21

Article 2. Definitions

22

23 15032. Unless the context otherwise requires, the definitions  
 24 in this article govern the construction of this chapter.

25 15033. (a) “Battery collector” or “collector” means a  
 26 collection center, collection program, or a curbside program  
 27 certified by the department and that accepts used household  
 28 batteries for recycling or proper disposal from consumers or from  
 29 other battery collectors.

30 (b) “Battery collection center” or “collection center” means an  
 31 operation that is certified by the department and that accepts used  
 32 household batteries from consumers *or other collectors* and pays  
 33 or provides the refund value for those used household batteries.

34 (c) “Battery distributor” or “distributor” means a person who  
 35 sells a household battery to a battery retailer, including a battery  
 36 manufacturer who engages in these sales, and a person who  
 37 imports a household battery from outside the state for sale to a  
 38 retailer or a consumer in this state.

39 (d) “Battery manufacturer” or “manufacturer” means a person  
 40 who manufactures household batteries for sale in the state.

1 (e) “Battery recycler” or “recycler” means a person, including  
2 a scrap dealer, certified by the department who purchases or  
3 accepts used household batteries from a battery collector in this  
4 state for recycling, or, if the battery is not recyclable, for proper  
5 disposal, and who cancels, or who certifies to the department in a  
6 form prescribed by the department the cancellation of, the refund  
7 value of these used batteries by processing the batteries, in a  
8 manner that the department prescribes.

9 (f) “Battery recycling fee” means the fee imposed pursuant to  
10 Section 15075 by the department upon a manufacturer.

11 (g) “Battery retailer” or “retailer” means a person who sells a  
12 household battery in the state to a consumer, including a  
13 manufacturer or distributor of a household battery who sells that  
14 household battery in a retail sale directly to a consumer. For  
15 purposes of this subdivision, a retail sale includes, but is not  
16 limited to, a transaction conducted through sales outlets, catalogs,  
17 or the Internet, or any other similar electronic means, but does  
18 not include a sale that is a wholesale transaction with a  
19 distributor or another retailer.

20 (h) “Collection payment” means an amount established by the  
21 department pursuant to Section 15075 that is paid by a battery  
22 recycler to a certified battery collector, pursuant to subdivision  
23 (b) of Section 15073.

24 (i) “Collection program” means a person, association,  
25 nonprofit corporation, church, club, or other organization  
26 certified by the department, that accepts or collects used  
27 household batteries from consumers to recycle them, or, if a  
28 battery is not recyclable, for proper disposal; or, any waste  
29 reduction facility that separates used household batteries from the  
30 waste stream for the purpose of recycling them or, if a battery is  
31 not recyclable, for proper disposal.

32 (j) “Consumer” means a purchaser or owner of a household  
33 battery. “Consumer” includes a business, corporation,  
34 governmental entity, limited partnership, nonprofit organization,  
35 or person. “Consumer” does not include a purchaser in a  
36 wholesale transaction between a distributor and retailer.

37 (k) “Curbside program” means a recycling program that meets  
38 all of the following criteria:

39 (1) The program picks up used household batteries from  
40 individual or multiple family residences, or both, and the used

1 household batteries are separated from waste materials prior to  
2 being picked up.

3 (2) The program is operated by, or pursuant to a contract with,  
4 a city, county, or other public agency, or is acknowledged, in  
5 writing, by a city, county, or other public agency.

6 (3) The program accepts household batteries from consumers  
7 for the purpose of recycling them or, if a battery is not  
8 recyclable, for proper disposal, but does not pay a refund value.

9 (l) “Department” means the Department of \_\_\_\_\_.

10 (m) “Director” means the Director of \_\_\_\_\_.

11 (n) “Fund” means the California Battery Recycling Fund  
12 established pursuant to subdivision (a) of Section 15080.

13 (o) (1) Except as provided in paragraphs (2) and (3),  
14 “household battery” means a nonrechargeable alkaline  
15 manganese battery, zinc-carbon battery, *button battery*, or similar  
16 battery typically generated as household waste, including, but not  
17 limited to, a battery used in a flashlight, calculator, radio, toy, or  
18 other device.

19 (2) “Household battery” does not include a spent lead-acid  
20 battery that is subject to Article 10.5 (commencing with Section  
21 25215) of Chapter 6.5 of Chapter 20 of the Health and Safety  
22 Code.

23 (3) “Household battery” does not include a rechargeable  
24 battery, as defined in Section 15010.

25 (p) “Proper disposal” means the disposal of used household  
26 batteries in accordance with all applicable state laws and  
27 regulations.

28 (q) “Recycling payment” means an amount paid by the  
29 department to a battery recycler pursuant to Section 15074.

30 (r) “Refund value” means the amount established pursuant to  
31 Section 15060 and paid by a distributor to the department  
32 pursuant to subdivision (b) of Section 15060 and paid by a  
33 certified collection center to a consumer pursuant to Section  
34 15071.

35 (s) “Scrap value” means the price paid for used household  
36 batteries by a recycler subject to this chapter, after shipping and  
37 handling costs are deducted.

38 (t) “Used household battery” or “used battery” means a  
39 household battery that has been previously used and is made  
40 available, by a consumer, for recycling or proper disposal.

1 Article 3. Administration

2  
3 15041. (a) The department shall certify battery collectors in  
4 accordance with the regulations adopted by the department  
5 pursuant to this section.

6 (b) The department shall adopt, by regulation, a procedure for  
7 the certification of battery collectors, including standards and  
8 requirements for certification, to carry out this chapter.

9 (c) A battery collector shall comply with the standards and  
10 requirements contained in the regulations for certification.

11 15042. (a) The department shall certify the operation of a  
12 battery recycler pursuant to regulations adopted by the  
13 department pursuant to this section.

14 (b) The director shall adopt, by regulation, a procedure for the  
15 certification of battery recyclers, including standards and  
16 requirements for certification, to carry out this chapter.

17 (c) A battery recycler shall comply with the standards and  
18 requirements contained in the regulations for certification.

19 (d) The department shall not take an action imposing a  
20 requirement upon, or otherwise regulating, a battery recycler  
21 unless the action is expressly authorized by this chapter.

22 15043. (a) The department shall develop and implement a  
23 public education campaign aimed at informing consumers of  
24 their responsibilities for properly managing used household  
25 batteries and promoting their recycling.

26 (b) The department shall initiate the public education  
27 campaign pursuant to this section in the first year that this  
28 chapter is implemented, using the funds authorized for  
29 expenditure pursuant to subdivision (c) of Section 15081.

30 15045. The department shall adopt regulations to implement  
31 this chapter.

32  
33 Article 4. Goals and Reporting

34  
35 15050. (a) It is the goal of this state that every used household  
36 battery generated in this state be diverted from solid waste  
37 disposal and recycled consistent with existing state laws that  
38 prohibit the disposal of hazardous electronic wastes.

39 (b) In working toward the achievement of the goal expressed  
40 in subdivision (a), the state hereby establishes the intermediate

1 goals that, for the reporting period ending December 31, 2009,  
2 not less than 50 percent of used household batteries be diverted  
3 from disposal, and for the reporting period ending December 31,  
4 2012 and thereafter, not less than 80 percent of used household  
5 batteries be diverted from disposal.

6 (c) If the department determines that the goals specified in  
7 subdivision (b) are not being achieved, the department shall  
8 make recommendations to the Legislature regarding either or  
9 both:

10 (1) Increasing the refund value.

11 (2) Establishing additional battery collection centers.

12 15051. (a) (1) A battery recycler shall submit a monthly  
13 report to the department on the amount of batteries, by material  
14 type and size, received from a collector for that month, any scrap  
15 value paid by the battery recycler to the collector for that month,  
16 and the manner in which those batteries were recycled or  
17 properly disposed. The report shall be submitted within 10 days  
18 after each month, in the form and manner that the department  
19 may prescribe.

20 (2) The department shall treat all information reported  
21 pursuant to this section by a battery recycler as commercial or  
22 financial information subject to the procedures established  
23 pursuant to Section 15054.

24 (b) A distributor who sells or offers household batteries for  
25 sale in this state shall submit a monthly report to the department  
26 on the number of each type and size of battery sold by that  
27 distributor, in the form and manner that the department  
28 prescribes. These reports shall be submitted by the day when the  
29 payment of refund values is due, consistent with the applicable  
30 payment schedule, in the form and manner which the department  
31 prescribes.

32 15052. The department shall establish reporting periods for  
33 the reporting of redemption rates and recycling rates. A reporting  
34 period shall be 12 months. The department shall determine the  
35 number of each type and size of batteries sold and the number of  
36 each type and size of batteries collected for recycling or proper  
37 disposal for each reporting period and shall issue a report on its  
38 determinations, within 130 days of the end of each reporting  
39 period.

1 15053. (a) All reports, claims, and other information required  
2 pursuant to this chapter and submitted to the department shall be  
3 complete, legible, and accurate, as determined by the department  
4 by regulation, and shall be signed, by an officer, director,  
5 managing employee, or owner of the battery recycler or battery  
6 distributor.

7 (b) The department may inspect the operations, processes, and  
8 records of an entity required to submit a report to the department  
9 pursuant to this chapter to determine the accuracy of the report  
10 and compliance with the requirements of this chapter.

11 ~~(c) A violation of this section is subject to the penalties~~  
12 ~~specified in Sections 15090 and 15091.~~

13 15054. The department shall establish procedures to protect  
14 any privileged, confidential, commercial, or financial information  
15 obtained while collecting information for carrying out the  
16 requirements of this chapter. All privileged, confidential,  
17 commercial, or financial information obtained in confidence by  
18 the department is not a public record for purposes of Chapter 3.5  
19 (commencing with Section 6250) of Division 7 of Title 1 of the  
20 Government Code.

21  
22 Article 5. Refund Value

23  
24 15060. (a) A refund value of ten cents (\$0.10) is hereby  
25 established for every household battery subject to this chapter.

26 (b) A distributor of household batteries shall pay the  
27 department the refund value for every household battery sold or  
28 offered for sale, in this state, or imported into this state.

29 (c) The payment shall be made within 40 days of a sale, or in  
30 the form and manner which the department may prescribe.

31  
32 Article 6. Returns

33  
34 15070. (a) The department shall provide a battery retailer  
35 with a sign that specifies the location or locations of the nearest  
36 collection center and a Web site and toll-free number, that shall  
37 be established by the department.

38 (b) A retailer shall post the sign provided by the department at  
39 every public entrance to the retailer's place of business.

1 (c) In developing the sign size and design, the department  
2 shall consult with battery retailers and their representatives.

3 15071. (a) A certified battery collection center shall accept  
4 from a consumer, collection program, or curbside program a used  
5 household battery, and shall pay to the consumer, collection  
6 program, or curbside program the refund value for that used  
7 household battery.

8 (b) Only a certified battery collection center shall pay a refund  
9 value to a consumer, a curbside program, or a collection  
10 program.

11 (c) A curbside program or a collection program may accept a  
12 used household battery from a consumer but shall not pay the  
13 consumer the applicable refund value.

14 (d) A person shall not receive or retain a refund value for a  
15 used battery for which a distributor did not pay the department  
16 the refund value, and for which a claim is made to the department  
17 against the fund.

18 15073. (a) A certified battery recycler shall pay the  
19 applicable refund value for each used household battery received  
20 by the recycler from a certified collection center, collection  
21 program, or curbside program, upon receipt by the certified  
22 recycler of a shipping report from the supplier of the material, in  
23 the form adopted by the regulations adopted by the department.

24 (b) If the department establishes a collection payment pursuant  
25 to Section 15075, a certified battery recycler shall pay a  
26 collection payment to the certified battery collector, for each  
27 used household battery received by the recycler from the  
28 collector, upon receipt by the certified recycler of a shipping  
29 report from the supplier of the material, in the form adopted by  
30 the regulations adopted by the department.

31 (c) A battery recycler shall make the payments required by  
32 subdivisions (a) and (b) within 10 working days of the date that  
33 the recycler receives the batteries, or within the time which the  
34 department determines to be necessary and adequate.

35 15074. (a) The department shall pay the refund value to a  
36 certified battery recycler for every used household battery  
37 received by the recycler from a certified battery collector, upon  
38 presentation of a completed processor invoice accompanied by a  
39 shipping report from the supplier of the material, in the form  
40 adopted by the department.

1 (b) If the department establishes a recycling payment pursuant  
2 to Section 15075, the department shall pay the amount of the  
3 recycling payment to the certified battery recycler for every used  
4 battery received by the recycler from a certified battery collector,  
5 upon presentation of a completed processor invoice accompanied  
6 by a shipping report from the supplier of the material, in the form  
7 adopted by the department.

8 (c) The department shall make the payments required by  
9 subdivisions (a) and (b) within 10 working days of the date that  
10 the department is notified of the delivery or within the time  
11 determined by the department to be necessary and adequate. If  
12 the payment is not made by the Controller to the certified battery  
13 recycler within 30 working days of receipt of the claims  
14 schedule, the Controller shall pay the recycler interest at the  
15 current prime lending rate for any period in excess of these 30  
16 working days.

17 15075. (a) If any type of household battery with a refund  
18 value established pursuant to this chapter has a scrap value less  
19 than the cost of collection and recycling, the department shall, on  
20 January 1, 2007, and on or before January 1 annually thereafter,  
21 establish a collection payment and a recycling payment for the  
22 battery, by the type and size of the battery.

23 (b) The department shall set the amount of the collection  
24 payment for each battery received for recycling or proper  
25 disposal, using the following criteria:

26 (1) The amount shall be at least equal to the total average cost  
27 for a certified collection center to receive, handle, store,  
28 transport, and maintain equipment, including any recycling or  
29 disposal fee charged by a recycler.

30 (2) The amount shall include a reasonable financial return.

31 (3) The amount shall exclude the scrap value received by the  
32 collector as determined by the department.

33 (c) The department shall determine the recycling payment for  
34 each battery received for recycling or proper disposal by a  
35 certified recycler, using the following criteria:

36 (1) The amount shall be at least equal to the total average cost  
37 for a certified battery recycler to receive, handle, store, process,  
38 transport, and maintain equipment for each battery, including any  
39 disposal fees.

40 (2) The amount shall include a reasonable financial return.

1 (3) The amount shall exclude the scrap value received by the  
2 recycler, as determined by the department.

3 (d) The department shall make the recycling payments from  
4 the funds in the California Battery Recycling Fund.

5 (e) If the department determines that there are insufficient  
6 funds in the California Battery Recycling Fund to make the  
7 recycling payments, the department shall impose a battery  
8 recycling fee, pursuant to subdivision (f).

9 (f) The department shall require a battery manufacturer to pay  
10 the department the applicable battery recycling fee for every  
11 battery sold or transferred to a distributor or retailer within 40  
12 days of the sale in the form and in the manner which the  
13 department may prescribe.

14 (g) The department shall deposit the battery recycling fee  
15 revenues in the fund.

16

17 Article 7. Financial Provisions

18

19 15080. (a) Except as provided in subdivision (d), the  
20 department shall deposit all amounts paid as refund values by  
21 distributors pursuant to Section 15060, all battery recycling fee  
22 payments received pursuant to Section 15075, and all other  
23 revenues received into the California Battery Recycling Fund,  
24 which is hereby created in the State Treasury. Notwithstanding  
25 Section 13340 of the Government Code, the money in the fund is  
26 hereby continuously appropriated to the department for  
27 expenditure without regard to fiscal year for the following  
28 purposes:

29 (1) The payment of refund values to certified battery recyclers  
30 pursuant to Section 15074.

31 (2) The payment of the collection payments and recycling  
32 payments, as determined pursuant to Section 15075.

33 (3) For a reserve for contingencies, which shall not be greater  
34 than an amount equal to 5 percent of the total amount paid to  
35 recyclers pursuant to Section 15074 during the preceding  
36 calendar year, plus any interest earned on that amount.

37 (b) The money in the fund may be expended by the  
38 department for the administration of this chapter only upon  
39 appropriation by the Legislature in the annual Budget Act.

1 (c) After setting aside funds estimated to be needed for  
2 expenditures authorized pursuant to this section, the department  
3 shall set aside funds on a quarterly basis for the purposes  
4 specified in Section 15081. Notwithstanding Section 13340 of  
5 the Government Code, that money is hereby continuously  
6 appropriated to the department, without regard to fiscal year, for  
7 the purposes specified in Section 15081.

8 ~~(d) The department shall deposit all civil penalties collected~~  
9 ~~pursuant to this chapter into the Penalty Account, which is~~  
10 ~~hereby created in the fund. The money in the Penalty Account~~  
11 ~~may be expended by the department only upon appropriation by~~  
12 ~~the Legislature, for purposes of this chapter.~~

13 15081. (a) (1) On and after July 1, 2007, the department  
14 may expend five million dollars (\$5,000,000) from the fund for  
15 payments of five thousand dollars (\$5,000) to cities and counties  
16 for battery collection and recycling activities, or the department  
17 may calculate the payments to counties and cities on a per capita  
18 basis, and may pay whichever amount is greater, for those  
19 activities.

20 (2) The eligible activities for the use of the funds authorized  
21 for expenditure pursuant to this subdivision may include, but are  
22 not limited to, support for new or existing curbside recycling  
23 programs, neighborhood dropoff recycling programs, public  
24 education promoting battery collection and recycling,  
25 cooperative regional efforts among two or more cities or  
26 counties, or both, or other battery collection and recycling  
27 programs.

28 (3) The funds authorized for expenditure pursuant to this  
29 subdivision shall not be used for activities unrelated to household  
30 battery collection and recycling.

31 (4) To receive the funds authorized by this subdivision, a city  
32 or county shall fill out and return a funding request form to the  
33 department. The form shall specify the battery recycling  
34 activities for which the funds will be used.

35 (5) The department shall annually prepare and distribute a  
36 funding request form to each city or county. The form shall  
37 specify the amount of battery collection and recycling funds for  
38 which the jurisdiction is eligible. The form shall not exceed one  
39 double-sided page in length, and may be submitted  
40 electronically. If a city or county does not return the funding

1 request form within 90 days of receipt of the form from the  
2 department, the city or county is not eligible to receive the funds  
3 for that funding cycle.

4 (6) For the purposes of this subdivision, per capita population  
5 shall be based on the population of the incorporated area of a city  
6 or the unincorporated area of a county.

7 (b) On and after July 1, 2007, the department may expend one  
8 million five hundred thousand dollars (\$1,500,000) annually  
9 from the fund in the form of grants for collection programs.

10 (c) The department may expend up to five million dollars  
11 (\$5,000,000) annually from the fund for the purposes of  
12 undertaking a statewide public education and information  
13 campaign aimed at promoting increased recycling of batteries.

14 (d) The department may expend up to five million dollars  
15 (\$5,000,000) annually January 1, 2010, from the fund to issue  
16 grants or loans for recycling market development and  
17 expansion-related activities aimed at increasing the recycling of  
18 batteries and the utilization of materials from used batteries.

19 15082. (a) The department shall review all funds on a  
20 quarterly basis to ensure that there are adequate funds to make  
21 the payments specified in Section 15081.

22 (b) If the department determines, pursuant to a review made  
23 pursuant to subdivision (a), that there may be inadequate funds to  
24 pay the payments required by Section 15081, the department  
25 shall immediately notify the appropriate policy and fiscal  
26 committees of the Legislature regarding the inadequacy.

27 (c) On or before 180 days after the notice is sent pursuant to  
28 subdivision (b), the department may reduce or eliminate  
29 expenditures, or both, specified in Section 15081 as necessary,  
30 according to the procedure set forth in subdivision (d).

31 (d) If the department determines that there are insufficient  
32 funds to make the payments specified pursuant to Section 15081,  
33 the department shall reduce all payments in Section 15081  
34 proportionally.

35

36 ~~Article 8. Enforcement and Severability~~

37

38 ~~15090. (a) Except as provided in subdivision (b), in addition~~  
39 ~~to any other applicable civil or criminal penalties, a person~~  
40 ~~convicted of a violation of this chapter is guilty of an infraction,~~

1 which is punishable by a fine of one hundred dollars (\$100) for  
2 each initial separate violation and not more than one thousand  
3 dollars (\$1,000) for each subsequent separate violation per day.

4 (b) (1) A person who, with intent to defraud, takes any of the  
5 following actions is guilty of fraud:

6 (A) Submits a false or fraudulent claim for payment pursuant  
7 to this chapter.

8 (B) Fails to accurately report the number of batteries sold, as  
9 required by Section 15051.

10 (C) Fails to make payments as required by Section 15060 or  
11 15073.

12 (D) Requests payment, pursuant to Section 15074, for the  
13 redemption of a battery for which a distributor did not make a  
14 refund value payment to the department, a rejected battery, or a  
15 battery that has already been redeemed.

16 (E) Returns a battery to a collector for which a refund value  
17 has been paid to the consumer or collector for redemption.

18 (F) Brings to a collector or recycler a battery for which a  
19 distributor did not make a refund value payment to the  
20 department, or a rejected battery.

21 (2) If the money obtained or withheld pursuant to paragraph  
22 (1) exceeds four hundred dollars (\$400), the fraud is punishable  
23 by imprisonment in the county jail for not more than one year or  
24 by a fine not exceeding ten thousand dollars (\$10,000) or by  
25 both, or by imprisonment in the state prison for 16 months, two  
26 years, or three years, or by a fine not exceeding twenty-five  
27 thousand dollars (\$25,000) or twice the late or unmade payments  
28 plus interest, whichever is greater, or by both fine and  
29 imprisonment. If the money obtained or withheld pursuant to  
30 paragraph (1) equals, or is less than, four hundred dollars (\$400),  
31 the fraud is punishable by imprisonment in the county jail for not  
32 more than six months or by a fine not exceeding one thousand  
33 dollars (\$1,000), or by both.

34 (e) For purposes of this section, “rejected battery” means a  
35 battery that has been rejected for sale by a manufacturer.

36 15091. (a) (1) The department may assess a civil penalty  
37 upon a person who violates this chapter or any regulations  
38 adopted pursuant to this chapter, in an amount greater than one  
39 thousand dollars (\$1,000), after notice and hearing in accordance

1 with Chapter 5 (commencing with Section 11500) of Part 1 of  
2 Division 3 of Title 2 of the Government Code.

3 (2) ~~The department may assess a civil penalty upon a person  
4 who violates this chapter in an amount equal to, or less than, one  
5 thousand dollars (\$1,000), using a notice of violation process  
6 established by regulation and may use an informal hearing  
7 process pursuant to Article 10 (commencing with Section  
8 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the  
9 Government Code.~~

10 (3) ~~Each violation of this chapter is a separate violation and  
11 each day of the violation is a separate violation. The department  
12 shall deposit all revenues from civil penalties in the Penalty  
13 Account specified in Section 15080.~~

14 (b) ~~A person who intentionally or negligently violates this  
15 chapter may be assessed a civil penalty by the department  
16 pursuant to subdivision (a) of up to five thousand dollars  
17 (\$5,000) for each separate violation, or for continuing violations,  
18 for each day that violation occurs.~~

19 (c) ~~A person who violates this chapter by an action not subject  
20 to subdivision (b) may be assessed a civil penalty by the  
21 department pursuant to subdivision (a) of up to one thousand  
22 dollars (\$1,000) for each separate violation, or for continuing  
23 violations, for each day that violation occurs.~~

24 (d) ~~A person shall not be liable for a civil penalty imposed  
25 under subdivision (b) and for a civil penalty imposed under  
26 subdivision (c) for the same act or failure to act.~~

27 (e) ~~In determining the amount of civil penalties to be imposed  
28 pursuant to this chapter, the department shall take into  
29 consideration the nature, circumstances, extent and gravity of the  
30 violation, the costs associated with bringing the action and, with  
31 respect to the violator, the ability to pay, the degree of  
32 culpability, compliance history, and any other matters that justice  
33 may require.~~

34 SEC. 2. ~~No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the  
39 penalty for a crime or infraction, within the meaning of Section  
40 17556 of the Government Code, or changes the definition of a~~

1 ~~crime within the meaning of Section 6 of Article XIII B of the~~  
2 ~~California Constitution.~~

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